

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of

Review of the Emergency Alert System

)  
)  
)  
)  
)

EB Docket No. 04-296

**COMMENTS OF  
TELECOMMUNICATIONS FOR THE DEAF, INC.  
ASSOCIATION OF LATE-DEAFENED ADULTS;  
DEAF & HARD OF HEARING CONSUMER ADVOCACY NETWORK;  
NATIONAL ASSOCIATION OF THE DEAF; AND  
SELF-HELP FOR HARD OF HEARING PEOPLE; AND**

Telecommunications for the Deaf, Inc. (“TDI”), through its undersigned counsel; the Association of Late-Deafened Adults (“ALDA”); the Deaf & Hard of Hearing Consumer Advocacy Network (“DHHCAN”); the National Association of the Deaf (“NAD”); and the Self-Help for Hard of Hearing People (“SHHH” and together with TDI, ALDA, DHHCAN, NDA, collectively “Commenters”) hereby submit their Comments to the Federal Communications Commission’s (the “Commission”) Notice of Proposed Rulemaking (“NPRM”) in the above-referenced proceeding.<sup>1</sup>

**I. INTRODUCTION**

TDI is a national advocacy organization actively engaged in representing the interests of the twenty-eight million Americans who are deaf, hard of hearing, late-deafened, and deaf-blind. TDI’s mission is to promote equal access to broadband, media and telecommunications for the

---

<sup>1</sup> *Notice of Proposed Rulemaking*, In the Matter of Review of the Emergency Alert System, EB Docket No. 04-296 (rel. August 12, 2004).

aforementioned constituency groups through consumer education and involvement, technical assistance and consulting, application of existing and emerging technologies, networking and collaboration, uniformity of standards, and national policy development and advocacy.

Formed in Chicago, Illinois in 1987, ALDA works collaboratively with other organizations around the world serving the needs of late-deafened people. Through its chapters and groups around the country, ALDA promotes public and private programs designed to alleviate the problems of late-deafness and for reintegrating late-deafened adults into all aspects of society. ALDA also provides educational information concerning issues affecting late-deafened adults, as well as advocacy on behalf of, and support for, late-deafened adults and their families and friends.

Established in 1993, DHHCAN serves as the national coalition of organizations representing the interests of deaf and/or hard of hearing citizens in public policy and legislative issues relating to rights, quality of life, equal access, and self-representation. DHHCAN also provides a forum for proactive discussion on issues of importance and movement toward universal, barrier-free access with emphasis on quality, certification, and standards.

Established in 1880, NAD is the nation's oldest and largest consumer-based national advocacy organization safeguarding the civil and accessibility rights of deaf and hard of hearing individuals in the United States of America. Policy and legislative issues addressed by the NAD cover a broad range of areas, including education, employment, health care, human services, rehabilitation, telecommunications, and transportation.

SHHH, is the nation's foremost consumer organization representing people with hearing loss. SHHH's national support network includes an office in the Washington D.C. area, 13 state organizations, and 250 local chapters. The SHHH mission is to open the world of

communication to people with hearing loss through information, education, advocacy, and support. SHHH provides cutting edge information to consumers, professionals and family members through their website, [www. hearingloss.org](http://www.hearingloss.org), their award -winning publication, *Hearing Loss*, and hearing accessible national and regional conventions. SHHH impacts accessibility, public policy, research, public awareness, and service delivery related to hearing loss on a national and global level.

## **II. COMMENTS**

### **A. Protections for Consumers with Disabilities**

Commenters applaud the Commission’s efforts to update and improve the Emergency Alert System (“EAS”). In particular, Commenters congratulate the Commission on its initiative to seek comment on whether consumers with hearing and speech disabilities are sufficiently protected by EAS, and give thorough consideration of the best methods to disseminate information during an emergency in a form accessible to disabled members of the public.<sup>2</sup>

Section 79.2 of the Commission’s Rules, 47 C.F.R. § 79.2, contains a definition of “emergency situation” intended to cover natural or man-made situations that impact the activities and decisions of a broad segment of the general population. This section describes a series of events as examples of circumstances in which broadcasters are required to provide transmittal of closed-captioning to consumers with disabilities. At the same time the EAS provides for a dual federal/state system of alerts to the population in case of emergency situations. Commenters urge the Commission to create a unified series of rules so that consumers with disabilities may learn of emergency situations that affect them. To that end, Commenters propose that the Commission combines the obligations to provide closed-captioning in emergency situations and

---

<sup>2</sup> NPRM at ¶ 36-39.

the obligations in the EAS context and enact a single series of rules binding on all broadcast stations at the federal, state and local levels.

In creating the new rules Commenters urge the Commission to be as over expansive as possible in order to protect deaf consumers. For example, Commenters note that events like the unfortunate September 11 attacks or the recent sniper shootings in the D.C. metropolitan area are not specifically included among the examples in Section 79.2. Although, the Commission has made clear that the examples given are intended to provide guidance as to what is covered by the rules and are not intended to be an exhaustive list of the situations in which captioning is required.<sup>3</sup> However, Commenters urge the Commission to revise its rules to make sure that situations such as terrorist incidents are included in these examples. To that end, Commenters propose that the Commission revisit the definition of “emergency” to make clear that broadcasters need to provide captioned information every time there is a situation or event that would normally interrupt a broadcast (*i.e.*, any breaking news alerts). In other words, if the situation or event is important enough to interrupt a broadcast, it's important enough to provide real time captions so that people with disabilities have timely and adequate access to such information.

Moreover, Commenters urge the Commission to consistently and vigorously enforce these rules (EAS and emergency broadcasting) so that consumers with disabilities have the equal access required by the Commission’s rules. Commenters note that not all broadcasters comply with their legal obligations to provide captioning in emergency situations. For example, in the recent events that occurred as a result of hurricanes Charlie, Frances and Ivan in the state of Florida, some local TV stations had outstanding coverage for deaf consumers (providing

accurate and timely information in visual form). Other stations did not provide sufficient information or updated information in a form accessible to deaf consumers, thereby not providing disabled consumers timely information in an event of emergency. Consumers with disabilities are entitled to receive the same timely and accurate information as other consumers in those situations where their lives, health, safety or properties may be affected.

In sum, the Commission has gone to great lengths to make sure that video programmers know about their obligations under the emergency information broadcasting rules and comply with them.<sup>4</sup> Commenters thank the Commission for those efforts. However, Commenters urge the Commission to (i) harmonize the obligations contained in Section 79.2 of the Rules and the EAS obligations to create a single, unified list of “triggering events” that would require broadcasters to provide information in visual form; (ii) to include additional examples of “emergency situations” in this section, such as terrorist attacks or other situations not currently set forth therein; and (iii) to vigorously enforce these rules to make sure that consumers with disabilities receive accurate and timely information in the event of emergency situations.

## **B. New Technologies**

In the NPRM, the Commission seeks comment on whether EAS should be expanded to other digital and alternative technologies and whether EAS can be combined with alternative public alert and warning systems (“APAWS”) to form a comprehensive national public warning system capable of reaching virtually everyone all the time.<sup>5</sup> Moreover, the Commission seeks comment as to how these digital and alternative technologies may have particular benefits for

---

<sup>3</sup> *In the Matter of Closed Captioning and Video Description of Video Providing, Implementation of Section 305 of the Telecommunications Act of 1996, Accessibility of Emergency Programming*, Second Report and Order, MM Docket No. 95-176, (rel. Apr. 14, 2000), at ¶ 3.

<sup>4</sup> *See e.g., Reminder to Video Programming Distributors of Obligation to Make Emergency Information Accessible to Persons with Hearing or Vision Disabilities*, Public Notice, DA 00-2361, (rel. July 18, 2003).

<sup>5</sup> NPRM at ¶¶ 29-32.

people with disabilities.<sup>6</sup> Commenters urge the Commission to extend the obligations of EAS to other technologies to ensure that dissemination of emergency information is not relegated to analog radio and TV stations. In particular, cable and satellite providers have routinely failed to transmit programs with captions and this may significantly affect the efficiency of EAS. The Commission must ensure that digital providers, including cable companies, satellite providers or other alternative providers are subject to the EAS and the Commission's obligations to provide captioned alerts so that the information can reach people with hearing disabilities.

Consumers (whether with a disability or not) are not constantly tuned to broadcast stations and thus may not timely learn of a situation that may affect their lives or their welfare. The more technologies that are included into the EAS, including, Internet broadcasting, EAS dedicated pagers, etc., the better chances that consumers will promptly learn of situations that may affect them. Moreover, for deaf consumers radios and TVs are not enough as the only media over which alerts are transmitted, simply because radios are not accessible to people with hearing disabilities and TVs depend on captioning to be accessible. Accordingly, the Commission should revisit its rules to include EAS obligations on digital providers and service providers using other alternative technologies.

Commenters strive for redundancy in all forms of current and emerging information protocols such as the Internet, pagers, PDAs, wireless phones, captioned radios, EAS dedicated pagers, geospecific capabilities for national, state and local authorities, etc. If a deaf person does not see the news on television at home, he or she may see it for example on variable message signs while driving. We cannot assume people will be home in front of a TV when an emergency occurs. The design of the EAS has to take into account an increasingly mobile society and build the infrastructure to notify people accordingly.

---

<sup>6</sup> *Id.* at 39.

In expanding the scope of EAS, the Commission must ensure that dissemination of information is done in a way accessible for people with hearing disabilities so that the benefits of the EAS are properly available to consumers with hearing and speech disabilities. According to a report by the National Center for Health Statistics, more than 23 million people are deaf or have a hearing disability, and more than 2.7 million people have a speech disability.<sup>7</sup> Similarly, the U.S. Census Bureau 1992 Survey of Income and Program Participation noted that 10.9 million Americans have a functional limitation in “[h]earing what is said in a normal conversation” and 2.3 million have a functional limitation in “[h]aving one’s speech understood.” All of these consumers would benefit from having access to EAS in different technologies. To that end, information must be available in visual form for these consumers, including, real-time closed captioning or open captions.

### **C. Mandatory Participation in EAS**

The NPRM seeks comment on whether parties should be mandated to participate in state and local EAS alert systems.<sup>8</sup> Commenters encourage the Commission to revisit its rules to mandate all local and state broadcasters to participate in the EAS system. As noted by the Commission, “the dissemination of emergency information is a critical and fundamental component of broadcasters’ local service obligations.”<sup>9</sup> Consumers with hearing disabilities would benefit greatly from having rules that mandates all parties to participate in the system and properly and timely disseminate information in the event of an emergency.

The Commission should mandate all broadcasters to participate in EAS and ensure that broadcasters provide access to emergency information in a manner accessible to consumers with

---

<sup>7</sup> Prevalence of selected chronic conditions: United States, 1990-1992.” National Center for Health Statistics. Vital Health Stat. 10(194), 1997.

<sup>8</sup> NPRM at ¶ 24.

<sup>9</sup> *Broadcast Localism*, Notice of Inquiry, MB Docket No. 04-223, FCC 04-129 (July 1, 2004).

disabilities so that the needs of this important and relatively large group of consumers are taken into account. Due to differing interpretation of the rules, the chance of a deaf viewer missing out on emergency news is greater because a broadcaster may treat the story as “news” that does not warrant the extra expense of captioning.



### **III. CONCLUSION**

Commenters applaud the Commission's efforts to revisit and update EAS in order to protect the interests of consumers, especially those with hearing and speech disabilities. Moreover, Commenters strongly urge the Commission to update EAS in a manner consistent with the recommendations contained herein.

Respectfully submitted,

/s/ Ulises R. Pin

Claude L. Stout  
Executive Director  
Telecommunications for the Deaf, Inc.  
8630 Fenton Street  
Suite 604  
Silver Spring, MD 20910-3803  
Telephone: (800) 735-2258 (MD Relay)  
(301) 589-3006 (TTY)  
Facsimile: (301) 589-3797

---

Paul O. Gagnier  
Ulises R. Pin  
SWIDLER BERLIN SHEREFF FRIEDMAN, LLP  
3000 K Street, N.W.  
Suite 300  
Washington, D.C. 20007  
Telephone: (202) 424-7500  
Facsimile: (202) 295-8478

Counsel to  
Telecommunications for the Deaf, Inc.

Brenda Battat  
Director of Public Policy and State Development  
Self Help for Hard of Hearing People  
7910 Woodmont Avenue, Suite 1200  
Bethesda, Maryland 20814

Kelby Brick  
Chair  
Deaf & Hard of Hearing  
Consumer Advocacy Network  
826 Locust Drive  
West River, Maryland 20778-9745

Nancy J. Bloch  
Executive Director  
National Association of the Deaf  
814 Thayer Avenue  
Silver Spring, MD 20910

Mary Clark  
President  
Association of Late-Deafened Adults  
401 Forest Avenue  
Oak Park, Illinois

Dated: October 29, 2004